



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,067	09/30/2003	Barbara Jean Lagno	630-041US	7512
47912	7590	02/23/2006	EXAMINER	
DEMONT & BREYER, LLC SUITE 250 100 COMMONS WAY HOLMDEL, NJ 07733			DESIR, PIERRE LOUIS	
			ART UNIT	PAPER NUMBER
			2681	
DATE MAILED: 02/23/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/675,067	LAGNO ET AL.
	Examiner Pierre-Louis Desir	Art Unit 2681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 30 January 2006.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-39 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-39 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 30 September 2003 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____.

Response to Arguments

1. Applicant's arguments filed 01/30/2006 have been fully considered but they are not persuasive.

As related to claim 1, applicants argue that nowhere does Crosbie or the applicant's admitted prior art teach or suggest, alone or in combination the recitation of claim 1. To support this argument Applicant argues that the concept which discussed in the admitted prior art is different from the concept recited in the claim.

Examiner respectfully disagrees with Applicants while reminding applicants that the claim language as recited in claim 1 is broadly interpreted; and as such, the combination of Crosbie and the admitted prior art reads on the claim limitation as written.

Also to further show the distinction between the admitted prior art and the claim, Applicant summarized various key distinctions. First, applicant claims that the claimed method indicates a specific location where a particular level of service has been experienced by another terminal. However, this specific reading is not present in the claim language.

Second, applicants state that the prior art method guides the terminal in a direction towards a better level of service, but does not indicate to the terminal a specific location with a particular level of service. First, nowhere in the claim language is there such a limitation i.e., indicating to a terminal a specific location. In addition, in paragraphs 9-11, Admission discloses a method wherein a third wireless terminal being informed that it should be able to communicate with a second wireless network. Thus, one skilled in the art would unhesitatingly conceptualize that the third wireless terminal has received an indication that it can communicate with a second wireless network, which is at a specific location.

The claim reads “transmitting to a third wireless terminal an indication that said wireless terminal should communicate with said second wireless terminal with said level of service at said location.” The applicant fails to show where in the claim is there the limitation that the method points exactly to a location at which a particular level of service be found, informs the terminal exactly to a location at which a particular level of service in one step, indicates a specific location where a particular level of service has been experienced by another terminal.

In addition, it is noted that the features upon which applicant relies (see above discussions) are not recited in the rejected claim. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Regarding claim 9, Applicant argues that nowhere does Crosbie or the applicants' admitted prior art teach or suggest, namely, “the transmission of an indication that the second wireless should be able to receive, at the location with which the measurement from the first terminal is associated, the electromagnetic signal of interest with the measurement of the characteristic of interest exceeding a threshold.

Examiner respectfully disagrees, Admission discloses a method comprising transmitting to a second wireless terminal an indication that said second wireless terminal should be able to receive at said location said electromagnetic signal (i.e., wireless terminal being informed that it should be able to communicate with a second wireless network, which is obviously at a certain location) (see page 1, paragraphs 9-11). Thus, one skilled in the art would obviously and unhesitatingly conceptualize that for the terminal to be indicated of the region with a better

service, the level of service in that region has to inherently be above any specified or predetermined threshold as compared to another region.

In addition, it is noted that the features upon which applicant relies (see Applicants' key distinctions, and claim 1 response) are not recited in the rejected claim. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Regarding claim 18, Applicants argue nowhere does Crosbie or the applicants' admitted prior art teach or suggest the transmission of an indication that the second terminal should be able to communicate, at the received location, with the access point such that the access point receives the second electromagnetic signal transmitted by the second terminal with the measurement of the characteristic of interest exceeding a threshold. This specific language is not present in the claim language. And, Applicants are reminded that Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

As related to what is disclosed in the claim language, Admission discloses a method comprising receiving location information (i.e., receiving information regarding the availability of the other region with capable level of service when the device is informed of inadequate level of service within the current region) (see paragraphs 9-11), and transmitting to a second wireless terminal an indication that said second wireless terminal should be able to receive at said location said electromagnetic signal (i.e., wireless terminal being informed (inherent transmission of an indication) that it should be able to communicate with a second wireless network, which is obviously at a certain location) (see page 1, paragraphs 9-11). Thus, one

skilled in the art would obviously and unhesitatingly conceptualize that for the terminal to be indicated of the region with a better service, the level of service in that region has to inherently be above any specified or predetermined threshold as compared to another region.

In addition, it is noted that the features upon which applicant relies (i.e., indicates a specific location a specific location...above a particular measurement threshold) are not recited in the rejected claim. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

As related to claim 26, refer to claim 1 response. And as related to claim 32, refer to claim 9 response.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-2, 6, 8-12, 16, 18-21, 25-27, 30-35, 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crosbie, Pub. No. US 2002/0035699 in view of Applicant admitted prior art (Admission) (US 2005/0070303).

Regarding claim 1, Crosbie discloses a method comprising: determining that a first wireless terminal at a location can communicate with a second wireless terminal with a level of service (i.e., determining a user service level associated with the device based on the device

identifier and based on a load level for the first wireless local area network in comparison to the load levels associated with each of the other wireless local area networks available for connection by the device) (see page 2, paragraph 16).

Although Crosbie discloses a method wherein a wireless local area network directs a device to establish a connection (inherent transmission of an indication), Crosbie does not specifically disclose a method comprising transmitting to a third wireless terminal an indication that said third wireless terminal should be able to communicate with said second wireless terminal with said level of service at said location.

However, Admission discloses a method comprising a third wireless terminal being informed (inherent transmission of an indication) that it should be able to communicate with a second wireless network (i.e., WLAN hotspot or access points) (see page 1, paragraphs 9-11).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine to combine the teachings as disclosed by the admission with the teachings as described by Crosbie to arrive at the claimed invention in order to provide to the device access to a better level of service (see page 2, paragraph 16).

Regarding claims 2 and 27, Crosbie discloses a method and apparatus (see claims 1 and 26 rejections) wherein a first wireless terminal and a third wireless terminal are different (see Crosbie page 2, paragraph 16. Also refer to Admission, figs. 1-2, and page 1, paragraphs 7-10).

Regarding claims 6, 16, 25, 30, and 39, Crosbie discloses a method as described above (see claims 1, 9, 26, and 32 rejections).

Although Crosbie discloses a method as described, Crosbie does not specifically disclose a method wherein the level of service is in terms of at least one of throughput, error rate, and latency.

However, Admission discloses a method wherein the level of service is measured in terms of throughput, error rate, and latency.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings as described to arrive at the claimed invention. A motivation for doing so would be to ensure the proper determination of a device as related to being able to communicate with another terminal.

Regarding claims 8 and 31, Crosbie discloses a method and apparatus (see claims 1 and 26 rejections) wherein said second wireless terminal is an IEEE 802.11 access point (i.e., Wireless LAN access points) (see paragraphs 4, and 16).

Regarding claim 9, Crosbie discloses a method comprising receiving from a first wireless terminal a measurement of a characteristic of an electromagnetic signal radiated by a source (i.e., comparing load (i.e., signal) levels of a first wireless local area network to the load levels associated with other available services) (see page 2, paragraph 16), wherein said measurement is associated with a location (i.e., the comparison is associated with a first wireless local area network located in one area with other wireless local area network located in other areas) (see paragraphs 12, 16 and 34).

Although Crosbie discloses a method comprising directing the mobile device to another WLAN (see paragraph 16), Crosbie does not specifically disclose a method comprising transmitting to a second wireless terminal an indication that said second wireless terminal should

be able to receive at said location said electromagnetic signal with said measurement exceeding a threshold.

However, Admission discloses a method comprising transmitting to a second wireless terminal an indication that said second wireless terminal should be able to receive at said location said electromagnetic signal (i.e., wireless terminal being informed (inherent transmission of an indication) that it should be able to communicate with a second wireless network) (see page 1, paragraphs 9-11). Thus, one skilled in the art would unhesitatingly conceptualize that for the terminal to be indicated of the region with a better service, the level of service in that region has to inherently be above any specified or predetermined threshold.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine to combine the teachings as disclosed by the admission with the teachings as described by Crosbie to arrive at the claimed invention in order to provide to the device access to a better level of service (see page 2, paragraph 16).

Regarding claims 10 and 33, Crosbie discloses a method and apparatus (see claims 9 and 32 rejections) wherein a first wireless terminal and a second wireless terminal are different (see Crosbie page 2, paragraph 16. Also refer to Admission, figs. 1-2, and page 1, paragraphs 7-10).

Regarding claims 11, 20, and 34, Crosbie discloses a method (see claims 9, 18 and 32 rejections) wherein said electromagnetic signal conveys a data block (i.e., packets are directed to and from devices) (see paragraph 4).

Regarding claims 12 and 35, Crosbie discloses a method and apparatus (see claim 11 and 34 rejections) wherein said source is an IEEE 802.11 access point (i.e., Wireless LAN access

points) (see paragraphs 4, and 16) and said data block constitutes a beacon frame (i.e., packet inherently constitute frame) (see paragraph 4).

Regarding claim 18, Crosbie discloses a method comprising; determining that a measurement of a characteristic of a first electromagnetic signal transmitted by said first wireless terminal (i.e., comparing load (i.e., signal) levels of a first wireless local area network to the load levels associated with other available services) (see page 2, paragraph 16).

Although Crosbie discloses a WLAN (i.e., access point) which receives signals transmitted by a device (i.e., packets are directed to and from devices) (see paragraph 4) and comprising directing the mobile device to another WLAN (see paragraph 16), Crosbie does not disclose a method comprising receiving a location; and transmitting to a second wireless terminal an indication that said second terminal should be able to communicate at said location with an access point such that said access point receives a second electromagnetic signal transmitted by said second wireless terminal with said measurement exceeding said threshold.

However, Admission discloses a method comprising receiving location information (i.e., receiving information regarding the availability of the other region with capable level of service when the device is informed of inadequate level of service within the current region) (see paragraphs 9-11), and transmitting to a second wireless terminal an indication that said second wireless terminal should be able to receive at said location said electromagnetic signal (i.e., wireless terminal being informed (inherent transmission of an indication) that it should be able to communicate with a second wireless network) (see page 1, paragraphs 9-11). Thus, one skilled in the art would unhesitatingly conceptualize that for the terminal to be indicated of the region with

a better service, the level of service in that region has to inherently be above any specified or predetermined threshold.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine to combine the teachings as disclosed by the admission with the teachings as described by Crosbie to arrive at the claimed invention in order to provide to the device access to a better level of service (see page 2, paragraph 16).

Regarding claim 19, Crosbie discloses a method (see claim 18 rejection) wherein a first wireless terminal and a second wireless terminal are different (see Crosbie page 2, paragraph 16. Also refer to Admission, figs. 1-2, and page 1, paragraphs 7-10).

Regarding claim 21, Crosbie discloses a method (see claim 18 rejection) wherein the access point performs measuring the characteristic (i.e., Crosbie discloses determining a user service level associated with the device based on a load level for the wireless local area network in comparison to the load levels associated with other wireless network. Thus, one skilled in the network would immediately envision that the WLAN performs a measurement of their load levels so that that measurement could be compared with other WLAN) (see page 2, paragraph 16).

Regarding claim 26, Crosbie discloses an apparatus comprising a processor (i.e., Crosbie discloses a wireless device which inherently comprises of a processor) for determining that a first wireless terminal at a location can communicate with a second wireless terminal with a level of service (i.e., determining a user service level associated with the device based on the device identifier and based on a load level for the first wireless local area network in comparison to the

load levels associated with each of the other wireless local area networks available for connection by the device) (see page 2, paragraph 16).

Although Crosbie discloses an apparatus wherein a wireless local area network directs a device to establish a connection (inherent transmission of an indication), Crosbie does not specifically disclose an apparatus comprising a transmitter for transmitting to a third wireless terminal an indication that said third wireless terminal should be able to communicate with said second wireless terminal with said level of service at said location.

However, Admission discloses an apparatus comprising a third wireless terminal being informed (inherent transmission of an indication) that it should be able to communicate with a second wireless network (i.e., WLAN hotspot or access points) (see page 1, paragraphs 9-11).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine to combine the teachings as disclosed by the admission with the teachings as described by Crosbie to arrive at the claimed invention in order to provide to the device access to a better level of service (see page 2, paragraph 16).

Regarding claim 32, Crosbie discloses an apparatus comprising a receiver (i.e., Crosbie discloses a wireless device which inherently comprises of a receiver) (see paragraph 16) for receiving from a first wireless terminal a measurement of a characteristic of an electromagnetic signal radiated by a source (i.e., comparing load (i.e., signal) levels of a first wireless local area network to the load levels associated with other available services) (see page 2, paragraph 16), wherein said measurement is associated with a location (i.e., the comparison is associated with a first wireless local area network located in one area with other wireless local area network located in other areas) (see paragraphs 12, 16 and 34).

Although Crosbie discloses an apparatus comprising directing the mobile device to another WLAN (see paragraph 16) (and inherently comprising of a transmitter), Crosbie does not specifically disclose an apparatus comprising a transmitter for transmitting to a second wireless terminal an indication that said second wireless terminal should be able to receive at said location said electromagnetic signal with said measurement exceeding a threshold.

However, Admission discloses an apparatus comprising transmitting to a second wireless terminal an indication that said second wireless terminal should be able to receive at said location said electromagnetic signal (i.e., wireless terminal being informed (inherent transmission of an indication) that it should be able to communicate with a second wireless network) (see page 1, paragraphs 9-11). Thus, one skilled in the art would unhesitatingly conceptualize that for the terminal to be indicated of the region with a better service, the level of service in that region has to inherently be above any specified or predetermined threshold.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine to combine the teachings as disclosed by the admission with the teachings as described by Crosbie to arrive at the claimed invention in order to provide to the device access to a better level of service (see page 2, paragraph 16).

4. Claims 3-5, 7, 13-15, 17, 22-24, 28-29, 36-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crosbie and Applicant admitted prior art (Admission), in further view of Reddy et al. (Reddy), Pub. No. US 2004/0147254.

Regarding claims 3-5, 14, 23, 28-29, and 37, Crosbie and Admission disclose a method as described above (see claims 1, 13, 22, and 36 rejection).

Although the combination discloses a method comprising transmitting an indication to the wireless terminal, the combination does not specifically disclose displaying the indication in form of a graphical map, wherein the graphical map portrays the location), and wherein the third wireless terminal (second terminal, as related to claim 14) performs displaying the indication.

However, Reddy discloses a method wherein the mobile unit is equipped with a map display, and comprising using relative position data to display hot spot areas relative to the estimated mobile unit location and relocating the mobile unit to preferred communication area based on the relative position data (see page 5, claim 13). Thus, the device would receive an indication of available hotspot, as related to its level of service, and display the location of the hotspot in the form of a map, wherein the device could be any device (a first device, a second device, a third device) searching for a better access to a hotspot.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to implement the characteristics of Reddy device with the teachings as described by the Crosbie and Admission to arrive at a device capable. A motivation for doing so would have been to provide to the user the exact location of the hotspot, which would ensure that the device has access to best available service.

Regarding claims 7 and 17, Crosbie and Admission discloses a method as described above (see claims 1 and 9 rejections).

Although Crosbie and Admission discloses a method as described, Crosbie and Admission does not specifically disclose a method wherein said location is determined with Global Positioning System measurements.

However, Reddy discloses a method wherein the location is determined with Global Positioning System measurements (see page 2, paragraph 17).

Therefore, it would have obvious to one of ordinary skill in the art at the time of the invention to combine the teachings as described by Reddy with the teachings as described by the combination of Crosbie and Admission to arrive at the claimed invention. A motivation for doing so would have been to obtain the exact location of the hotspot, as related to longitudes and latitude, in order to heighten the display of the location.

Regarding claims 13, 22, and 36, Crosbie discloses a method as described above (see claims 9, 18, and 32 rejections).

Although Crosbie discloses a method as described, Crosbie does not specifically disclose a method wherein said indication constitutes a set of displayable information, wherein said set of displayable information comprises said location.

However, Reddy discloses a method comprising displaying a set of displayable information, wherein the displayable information comprises a location (see page 5, claim 13, and refer to rejection of claims 3-5). Thus, the device would receive an indication of available hotspot, as related to its level of service, and display the location of the hotspot in the form of a map, wherein the device could be any device searching for a better access to a hotspot.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to implement the characteristics of Reddy device with the teachings as described by the Crosbie and Admission to arrive at a device capable. A motivation for doing so would have been to provide to the user the exact location of the hotspot, which would ensure that the device has access to best available service.

Regarding claims 15, 24, and 38, Crosbie discloses a method as described above (see claims 13, 22, and 36 rejections).

Although Crosbie discloses a method as described above, Crosbie does not specifically disclose a method wherein said set of displayable information is in the form of a graphical map, wherein the size of said set of displayable information is dependent on said second wireless terminal.

However, Reddy discloses a method wherein the mobile unit is equipped with a map display, and comprising using relative position data to display hot spot areas relative to the estimated mobile unit location and relocating the mobile unit to preferred communication area based on the relative position data (see page 5, claim 13). Thus, the device would inherently display the information according to its display characteristics, and display the location of the hotspot in the form of a map, wherein the device could be any device (a first device, a second device, a third device) searching for a better access to a hotspot.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to implement the characteristics of Reddy device with the teachings as described by the Crosbie and Admission to arrive at a device capable. A motivation for doing so would have been to provide to the user the exact location of the hotspot, which would ensure that the device has access to best available service.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pierre-Louis Desir whose telephone number is (571) 272-779. The examiner can normally be reached on Monday-Friday 8:00AM- 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on (571) 272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Pierre-Louis Desir
02/20/2006


JOSEPH FEILD
SUPERVISORY PATENT EXAMINER